

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**TOLL BROS., INC.,**

**Plaintiff,**

**v.**

**ESSEX INSURANCE CO., ET AL.,**

**Defendants.**

**CIVIL ACTION**

**NO. 07-01296**

**ORDER**

**AND NOW THIS 29<sup>th</sup>** day of April, 2015, upon consideration of Plaintiff Toll Brothers, Inc.'s Affidavit of Fees and Costs (Doc. 88), Defendant Essex Insurance Company's Response in Opposition thereto (Doc. 89), Plaintiff's Reply Brief in Further Support of Plaintiff's Affidavit of Fees and Costs (Doc. 90), Defendant's Memorandum Concerning Duty to Defend and Rescission (Doc. 93), Plaintiff's Supplemental Brief Regarding Extinguishment of the Duty to Defend (Doc. 94), and all other briefs, exhibits, and papers herein, **IT IS HEREBY ORDERED and**

**DECREED** as follows:

- 1) The Court's June 17, 2013 Order granting Plaintiff Toll Brothers, Inc.'s Motion for Partial Summary Judgment is **VACATED**;
- 2) Defendant Essex Insurance Company's Motion for Summary Judgment with respect to Toll's defense claim is **GRANTED**; and
- 3) Plaintiff Toll Brothers, Inc.'s Affidavit of Fees and Costs is **DENIED**.

**BY THE COURT:**

**/s/ Petrese B. Tucker**

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**Hon. Petrese B. Tucker, C.J.**